

## Message Text

CONFIDENTIAL

PAGE 01 BONN 15068 01 OF 02 081904Z

46

ACTION EUR-12

INFO OCT-01 ISO-00 EURE-00 SSO-00 NSCE-00 USIE-00 INRE-00

CIAE-00 DODE-00 PM-04 H-02 INR-07 L-03 NSAE-00 NSC-05

PA-01 PRS-01 SP-02 SS-15 MCT-01 IO-13 SY-05 ACDA-07

OMB-01 SAJ-01 /081 W

----- 029040

O R 081854Z SEP 76

FM AMEMBASSY BONN

TO SECSTATE WASHDC IMMEDIATE 1687

USMISSION USBERLIN IMMEDIATE

INFO AMEMBASSY BERLIN

AMEMBASSY LONDON

AMEMBASSY MOSCOW

AMEMBASSY PARIS

USMISSION NATO BRUSSELS

C O N F I D E N T I A L SECTION 01 OF 02 BONN 15068

E.O. 11652: GDS

TAGS: PFOR PGOV WB GW UK US FR

SUBJECT: TAKEOVER IN BERLIN OF ANTI-TERRORISM LAW

REFS: (A) USBER 1854 NOTAL; (B) BONN 14934

BEGIN SUMMARY. ALLIED BONN GROUP REPS ASSUME FRG ANTI-TERRORISM LAW WILL BE TAKEN OVER BY BERLIN HOUSE OF REPRESENTATIVES AS SCHEDULED ON SEPTEMBER 9.

TRIPARTITE AND FULL BONN GROUP DISCUSSIONS ARE CONTINUING, AND WE WILL BE PROVIDING RECOMMENDATIONS IN THE NEAR FUTURE AS TO THE NATURE OF ALLIED RESERVATIONS WHICH SHOULD BE EXPRESSED BEFORE THE LAW IS PUBLISHED IN BERLIN. END SUMMARY.

1. AT BONN GROUP MEETING SEPTEMBER 7, ALLIED REPS EXPRESSED THEIR MISGIVINGS TO FRG REPS OVER SECTION III OF NEW ANTI-TERRORISM LAW AND THE PROBLEMS INVOLVED  
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 BONN 15068 01 OF 02 081904Z

IN A SEEMING INCREASE IN THE COMPETENCE OF THE FEDERAL

PROSECUTOR TO ACT IN BERLIN. FRG VIEWS WERE SOUGHT ON THE RESULTING SITUATION IF ARTICLE III WERE NOT TAKEN OVER IN BERLIN.

2. FRG REPS COULD GIVE ONLY PRELIMINARY OPINIONS, AND A SPECIAL BONN GROUP MEETING WILL BE HELD ON THE MORNING OF FRIDAY, SEPTEMBER 10 FOR FULLER DISCUSSION, POSSIBLY WITH REPRESENTATIVES FROM THE MINISTRY OF JUSTICE. MEANWHILE, ALLIED REPS MET AGAIN TRIPARTITELY AFTERNOON OF SEPTEMBER 8 FOR FURTHER DISCUSSION OF PROBLEM.

3. GIVEN TIME FACTOR, WE ASSUME LAW WILL BE ADOPTED BY BERLIN HOUSE OF REPRESENTATIVES ON SEPTEMBER 9. IT SEEMS CLEAR THAT SOME KIND OF BK/O AND POSSIBLY BK/L WILL BE REQUIRED AND THAT DECISIONS WILL HAVE TO BE REACHED BEFORE LAW IS PUBLISHED IN BERLIN, WHICH WE UNDERSTAND CAN BE DELAYED UNTIL SEPTEMBER 20.

4. PRESENT THINKING OF ALLIED REPS IS THAT IT MAY BE POSSIBLE TO ACCEPT SECTION 1 OF ARTICLE III AND THAT ONLY SECTION 2 OF ARTICLE III NEED BE SUSPENDED OR DEPRIVED OF EFFECT BY A BK/O. ALLIED REPS WILL MAKE MORE PRECISE RECOMMENDATIONS TO CAPITALS FOLLOWING NEXT BONN GROUP MEETING AND A FOLLOW-UP TRIPARTITE MEETING.

5. COMMENT: WITH REGARD TO REF (A), ALLIED BONN GROUP REPS HAVE BEEN PROCEEDING ON THE ASSUMPTION THAT WHAT IS NEEDED IS CONFIDENCE, AS WE MOVE AHEAD IN THIS CONTROVERSIAL AREA, THAT ALLIED POSITIONS ARE FULLY JUSTIFIABLE IN TERMS OF FULFILLING OUR OWN RESPONSIBILITIES IN BERLIN. A CONCOMITANT OF THIS IS THAT WE WILL BE IN A MUCH BETTER POSITION TO FACE DOWN SOVIET PROTESTS.

CONFIDENTIAL

NNN

CONFIDENTIAL

PAGE 01 BONN 15068 02 OF 02 081909Z

43

ACTION EUR-12

INFO OCT-01 EURE-00 ISO-00 SSO-00 NSCE-00 USIE-00 INRE-00

MCT-01 IO-13 SY-05 CIAE-00 DODE-00 PM-04 H-02 INR-07

L-03 NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15 ACDA-07

OMB-01 SAJ-01 /081 W

----- 029132

O R 081854Z SEP 76

FM AMEMBASSY BONN

TO SECSTATE WASHDC IMMEDIATE 1688

USMISSION USBERLIN IMMEDIATE

INFO AMEMBASSY BERLIN

AMEMBASSY LONDON

AMEMBASSY MOSCOW

AMEMBASSY PARIS

USMISSION NATO BRUSSELS

C O N F I D E N T I A L SECTION 02 OF 02 BONN 15068

6. THE BASIC PROBLEM HAS TO DO WITH THE PROHIBITION IN THE QA AGAINST PERFORMANCE IN THE WSB OF ACTS IN EXERCISE OF DIRECT STATE AUTHORITY OVER THE WSB BY FEDERAL MINISTRIES AND FEDERAL COURTS. AS THE DEPARTMENT RECOGNIZED EARLY IN 1972, THIS ALLIED AGREEMENT IN THE QA COULD MAKE IT NECESSARY AT SOME POINT TO MAKE AT LEAST NON-SUBSTANTIVE CHANGES IN THE BERLIN COURT STRUCTURE; THIS COULD ALSO APPLY TO ACTIVITIES OF THE FEDERAL PROSECUTOR. SO FAR SUCH A STEP HAS NOT BEEN CALLED FOR, AND INDEED AFTER FIVE YEARS IT WOULD BE ALMOST IMPOSSIBLE TO DO SO WITHOUT CREATING A MAJOR PROBLEM IN ALLIED-FRG RELATIONS.

7. MEANWHILE, AS THE SOVIETS PAY INCREASING ATTENTION TO ACTIVITIES OF THE COURTS AND PROSECUTOR WE HAVE STOOD CONFIDENTIAL

CONFIDENTIAL

PAGE 02 BONN 15068 02 OF 02 081909Z

OUR GROUND BY A LEGALLY DUBIOUS BUT POLITICALLY ESSENTIAL RELIANCE ON MAINTAINING THE "EXISTING SITUATION." THE DIFFICULTY AS THE THREE EMBASSIES HERE SEE IT IS THAT WE ARE DEPRIVED OF THE EXISTING SITUATION ARGUMENT IF NEW LEGISLATION GIVES COMPETENCE TO THE FEDERAL PROSECUTOR WHICH HE DID NOT HAVE AT THE TIME OF THE SIGNING OF THE QA.

8. ALLIED REPS OF COURSE RECOGNIZE THE NEED FOR FULLEST POSSIBLE GERMAN UNDERSTANDING OF THE POTENTIAL DIFFICULTIES CREATED BY NEW LEGISLATION AND OF THE MEASURES WHICH ALLIED AUTHORITIES MAY HAVE TO TAKE.

IT IS FOR THIS REASON THAT WE ARE SEEKING TO RESOLVE  
THE PROBLEM IN FULL CONSULTATIONS WITH THE FRG  
IN THE BONN GROUP.  
HILLENBRAND

CONFIDENTIAL

NNN

## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** LAW, TERRORISTS, MEETINGS, MEETING REPORTS  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 08 SEP 1976  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Authority:** ElyME  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
**Document Number:** 1976BONN15068  
**Document Source:** CORE  
**Document Unique ID:** 00  
**Drafter:** n/a  
**Enclosure:** n/a  
**Executive Order:** GS  
**Errors:** N/A  
**Film Number:** D760339-0913  
**From:** BONN  
**Handling Restrictions:** n/a  
**Image Path:**  
**ISecure:** 1  
**Legacy Key:** link1976/newtext/t19760983/aaaactdz.tel  
**Line Count:** 173  
**Locator:** TEXT ON-LINE, ON MICROFILM  
**Office:** ACTION EUR  
**Original Classification:** CONFIDENTIAL  
**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
**Page Count:** 4  
**Previous Channel Indicators:** n/a  
**Previous Classification:** CONFIDENTIAL  
**Previous Handling Restrictions:** n/a  
**Reference:** 76 USBERLIN 1854, 76 BONN 14934  
**Review Action:** RELEASED, APPROVED  
**Review Authority:** ElyME  
**Review Comment:** n/a  
**Review Content Flags:**  
**Review Date:** 01 APR 2004  
**Review Event:**  
**Review Exemptions:** n/a  
**Review History:** RELEASED <01 APR 2004 by BoyleJA>; APPROVED <11 AUG 2004 by ElyME>  
**Review Markings:**

Margaret P. Grafeld  
Declassified/Released  
US Department of State  
EO Systematic Review  
04 MAY 2006

**Review Media Identifier:**  
**Review Referrals:** n/a  
**Review Release Date:** n/a  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** TAKEOVER IN BERLIN OF ANTI-TERRORISM LAW  
**TAGS:** PFOR, PGOV, WB, GE, UK, US, FR  
**To:** STATE USBERLIN  
**Type:** TE  
**Markings:** Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006